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HOUSE BILL 449

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Daniel R. Foley

AN ACT

RELATING TO LAW ENFORCEMENT; REVISING THE DEFINITIONS FOR SEX OFFENDER AND SEX OFFENSE; LENGTHENING REGISTRATION PERIODS FOR SEX OFFENDERS; REQUIRING A SEX OFFENDER TO PROVIDE ADDITIONAL REGISTRATION INFORMATION; AMENDING SECTIONS OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended) is amended to read:

"29-11A-3. DEFINITIONS. -- As used in the Sex Offender Registration and Notification Act:

A. "sex offender" means a person [~~eighteen years of age or older~~] who:

(1) is a resident of New Mexico who is convicted of a sex offense in New Mexico;

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1 (2) changes his residence to New Mexico, when
2 that person has been convicted of a sex offense in another
3 state pursuant to state, federal or military law;

4 (3) is a resident of New Mexico who is
5 convicted of a sex offense pursuant to federal or military law;
6 or

7 (4) is a resident of another state and who has
8 been convicted of a sex offense pursuant to state, federal or
9 military law, but who is:

10 (a) employed full time or part time in
11 New Mexico for a period of time exceeding fourteen days or for
12 an aggregate period of time exceeding thirty days during any
13 calendar year; or

14 (b) enrolled on a full-time or part-time
15 basis in a private or public school in New Mexico, including a
16 secondary school, a trade school, a professional institution or
17 an institution of higher education; and

18 B. "sex offense" means:

19 (1) criminal sexual penetration in the first,
20 second, third or fourth degree, as provided in Section 30-9-11
21 NMSA 1978;

22 (2) criminal sexual contact in the fourth
23 degree, as provided in Section 30-9-12 NMSA 1978;

24 (3) criminal sexual contact of a minor in the
25 third or fourth degree, as provided in Section 30-9-13 NMSA

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1 1978;

2 (4) sexual exploitation of children, as
3 provided in Subsection [~~A, B or C~~] B, C or D of Section 30-6A-3
4 NMSA 1978;

5 (5) sexual exploitation of children by
6 prostitution, as provided in Section 30-6A-4 NMSA 1978;

7 (6) kidnapping, as provided in Section
8 30-4-1 NMSA 1978, when the victim is less than eighteen years
9 of age and the offender is not a parent of the victim;

10 (7) false imprisonment, as provided in Section
11 30-4-3 NMSA 1978, when the victim is less than eighteen years
12 of age and the offender is not a parent of the victim;

13 (8) aggravated indecent exposure, as provided
14 in Section 30-9-14.3 NMSA 1978;

15 (9) enticement of a child, as provided in
16 Section 30-9-1 NMSA 1978;

17 [~~(8)~~] (10) solicitation to commit criminal
18 sexual contact of a minor in the third or fourth degree, as
19 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

20 [~~(9)~~] (11) attempt to commit any of the sex
21 offenses set forth in Paragraphs (1) through [~~(7)~~] (8) of this
22 subsection, as provided in Section 30-28-1 NMSA 1978. "

23 Section 2. Section 29-11A-4 NMSA 1978 (being Laws 1995,
24 Chapter 106, Section 4, as amended) is amended to read:

25 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION

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1 **REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --**

2 A. A sex offender residing in this state shall
3 register with the county sheriff for the county in which the
4 sex offender resides.

5 B. A sex offender who is a current resident of New
6 Mexico shall register with the county sheriff no later than ten
7 days after being released from the custody of the corrections
8 department or being placed on probation or parole. A sex
9 offender who changes his residence to New Mexico shall register
10 with the county sheriff no later than ten days after
11 establishing residence in this state. When a sex offender
12 registers with the county sheriff, he shall provide the
13 following registration information:

14 (1) his legal name and any other names or
15 aliases that he is using or has used;

16 (2) his date of birth;

17 (3) his social security number;

18 (4) his current address;

19 (5) his place of employment;

20 (6) motor vehicle registration information for
21 all motor vehicles that the sex offender owns;

22 ~~(6)~~ (7) the sex offense for which he was
23 convicted; and

24 ~~(7)~~ (8) the date and place of his sex
25 offense conviction.

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1 C. A sex offender who is a resident of another
2 state but who is employed in New Mexico or attending school in
3 New Mexico shall register with the county sheriff for the
4 county in which the sex offender is working or attending
5 school.

6 D. A sex offender who is a resident of another
7 state but who is employed in New Mexico or attending school in
8 New Mexico shall register with the county sheriff no later than
9 ten days after beginning work or school. When the sex offender
10 registers with the county sheriff, he shall provide the
11 following registration information:

12 (1) his legal name and any other names or
13 aliases that he is using or has used;

14 (2) his date of birth;

15 (3) his social security number;

16 (4) his current address in his state of
17 residence and, if applicable, the address of his place of
18 lodging in New Mexico while he is working or attending school;

19 (5) his place of employment or the name of the
20 school he is attending;

21 (6) motor vehicle registration information for
22 all motor vehicles that the sex offender owns;

23 [~~(6)~~] (7) the sex offense for which he was
24 convicted; and

25 [~~(7)~~] (8) the date and place of his sex

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1 offense conviction.

2 E. When a sex offender registers with a county
3 sheriff, the sheriff shall obtain:

4 (1) a photograph of the sex offender and a
5 complete set of the sex offender's fingerprints; and

6 (2) a description of any tattoos, scars or
7 other distinguishing features on the sex offender's body that
8 would assist in identifying the sex offender.

9 F. When a sex offender who is registered changes
10 his residence within the same county, the sex offender shall
11 send written notice of his change of address, including proof
12 of his new address, to the county sheriff no later than ten
13 days after establishing his new residence.

14 G. When a sex offender who is registered changes
15 his residence to a new county in New Mexico, the sex offender
16 shall register with the county sheriff of the new county no
17 later than ten days after establishing his new residence. The
18 sex offender shall also send written notice of the change in
19 residence to the county sheriff with whom he last registered no
20 later than ten days after establishing his new residence.

21 H. When a sex offender who is registered
22 subsequently is employed, begins a vocation or is enrolled as a
23 student at an institution of higher education, the sex offender
24 shall send written notice of that status to the county sheriff
25 no later than ten days after beginning employment, beginning a

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1 vocation or enrolling at an institution of higher education.
2 The sex offender shall also send written notice of any change
3 regarding his employment or enrollment status at an institution
4 of higher education to the county sheriff no later than ten
5 days after the change in his employment or enrollment status.

6 ~~[H-]~~ I. Following his initial registration pursuant
7 to the provisions of this section:

8 (1) a sex offender required to register
9 pursuant to the provisions of Subsection D of Section
10 29-11A-5 NMSA 1978 shall ~~[annually]~~ renew his registration with
11 the county sheriff ~~[prior to December 31 of each subsequent~~
12 ~~calendar year for a period of twenty years]~~ not less than once
13 in each ninety-day period following the date of the sex
14 offender's initial registration for the entirety of his natural
15 life; and

16 (2) a sex offender required to register
17 pursuant to the provisions of Subsection E of Section
18 29-11A-5 NMSA 1978 shall annually renew his registration with
19 the county sheriff prior to December 31 of each subsequent
20 calendar year for a period of ~~[ten]~~ twenty years.

21 J. Notwithstanding the provisions of Paragraph (2)
22 of Subsection I of this section, a sex offender who is
23 convicted a second or subsequent time for a sex offense set
24 forth in Subsection E of Section 29-11A-5 NMSA 1978 shall be
25 required to renew his registration with the county sheriff not

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1 less than once in each ninety-day period following the date of
2 the sex offender's initial registration for the entirety of his
3 natural life.

4 [I-] K. A sex offender who willfully fails to
5 comply with the registration requirements set forth in this
6 section is guilty of a fourth degree felony and shall be
7 sentenced pursuant to the provisions of Section 31-18-15 NMSA
8 1978.

9 [J-] L. A sex offender who willfully provides false
10 information when complying with the registration requirements
11 set forth in this section is guilty of a fourth degree felony
12 and shall be sentenced pursuant to the provisions of Section
13 31-18-15 NMSA 1978. "

14 Section 3. Section 29-11A-5 NMSA 1978 (being Laws 1995,
15 Chapter 106, Section 5, as amended) is amended to read:

16 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
17 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
18 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

19 A. A county sheriff shall maintain a local registry
20 of sex offenders in his jurisdiction required to register
21 pursuant to the provisions of the Sex Offender Registration and
22 Notification Act.

23 B. The county sheriff shall forward registration
24 information obtained from sex offenders to the department of
25 public safety. The initial registration information and any

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1 new registration information subsequently obtained from a sex
2 offender shall be forwarded by the county sheriff no later than
3 ten working days after the information is obtained from a sex
4 offender. If the department of public safety receives
5 information regarding a sex offender from a governmental entity
6 other than a county sheriff, the department shall send that
7 information to the county sheriff for the county in which the
8 sex offender resides.

9 C. The department of public safety shall maintain a
10 central registry of sex offenders required to register pursuant
11 to the provisions of the Sex Offender Registration and
12 Notification Act. The department shall participate in the
13 national sex offender registry administered by the United
14 States department of justice. The department shall send
15 conviction information and fingerprints for all sex offenders
16 registered in New Mexico to the national sex offender registry
17 administered by the United States department of justice and to
18 the federal bureau of investigation.

19 D. The department of public safety shall retain
20 registration information regarding sex offenders convicted for
21 the following sex offenses for ~~[a period of twenty years~~
22 ~~following the sex offender's conviction, release from prison or~~
23 ~~release from probation or parole, whichever occurs later]~~ the
24 entirety of the sex offender's natural life:

25 (1) criminal sexual penetration in the first,

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1 [or] second or third degree, as provided in Section 30-9-11
2 NMSA 1978;

3 (2) criminal sexual contact of a minor in the
4 third or fourth degree, as provided in Section 30-9-13 NMSA
5 1978;

6 (3) sexual exploitation of children, as
7 provided in Subsection [~~A, B or C~~] B, C or D of Section 30-6A-3
8 NMSA 1978;

9 (4) kidnapping, as provided in Section
10 30-4-1 NMSA 1978, when the victim is less than eighteen years
11 of age and the offender is not a parent of the victim; [or]

12 (5) criminal sexual contact in the fourth
13 degree, as provided in Section 30-9-12 NMSA 1978; or

14 [~~(5)~~] (6) attempt to commit any of the sex
15 offenses set forth in Paragraphs (1) through [~~(4)~~] (5) of this
16 subsection, as provided in Section 30-28-1 NMSA 1978.

17 E. The department of public safety shall retain
18 registration information regarding sex offenders convicted for
19 the following offenses for a period of ten years following the
20 sex offender's conviction, release from prison or release from
21 probation or parole, whichever occurs later:

22 (1) criminal sexual penetration in the third
23 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

24 [~~(2) criminal sexual contact in the fourth~~
25 ~~degree, as provided in Section 30-9-12 NMSA 1978;~~

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1 ~~(3) criminal sexual contact of a minor in the~~
2 ~~fourth degree, as provided in Section 30-9-13 NMSA 1978;~~

3 (4)] (2) sexual exploitation of children by
4 prostitution, as provided in Section 30-6A-4 NMSA 1978;

5 ~~[(5)]~~ (3) false imprisonment, as provided in
6 Section 30-4-3 NMSA 1978, when the victim is less than eighteen
7 years of age and the offender is not a parent of the victim;

8 (4) aggravated indecent exposure, as provided
9 in Section 30-9-14.3 NMSA 1978;

10 (5) enticement of a child, as provided in
11 Section 30-9-1 NMSA 1978;

12 (6) solicitation to commit criminal sexual
13 contact of a minor in the third or fourth degree, as provided
14 in Sections 30-9-13 and 30-28-3 NMSA 1978; or

15 (7) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (5) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978.

18 F. Notwithstanding the provisions of Subsection E
19 of this section, when a sex offender is convicted a second or
20 subsequent time for a sex offense set forth in that subsection,
21 the department of public safety shall retain registration
22 information regarding the sex offender for the entirety of the
23 sex offender's natural life.

24 ~~[F.]~~ G. The department of public safety shall adopt
25 rules necessary to carry out the provisions of the Sex Offender

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1 Registration and Notification Act. "

2 Section 4. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,
3 Chapter 19, Section 8, as amended) is amended to read:

4 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
5 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
6 NOTIFICATION--INTERNET WEB SITE. --

7 A. If a sex offender is convicted of one of the
8 following sex offenses, the county sheriff shall forward
9 registration information obtained from the sex offender to the
10 district attorney for the judicial district in which the sex
11 offender resides and, if the sex offender is a resident of a
12 municipality, the chief law enforcement officer for the
13 municipality in which the sex offender resides:

14 (1) criminal sexual penetration in the first,
15 [~~or~~] second or third degree, as provided in Section 30-9-11
16 NMSA 1978;

17 (2) criminal sexual contact of a minor in the
18 third or fourth degree, as provided in Section 30-9-13 NMSA
19 1978;

20 (3) sexual exploitation of children, as
21 provided in Subsection [~~A, B or C~~] B, C or D of Section 30-6A-3
22 NMSA 1978;

23 (4) sexual exploitation of children by
24 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

25 (5) attempt to commit any of the sex offenses

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1 set forth in Paragraphs (1) through (4) of this subsection, as
2 provided in Section 30-28-1 NMSA 1978.

3 B. A person who wants to obtain registration
4 information regarding sex offenders described in Subsection A
5 of this section may request that information from the:

6 (1) county sheriff for the county in which the
7 sex offenders reside;

8 (2) chief law enforcement officer for the
9 municipality in which the sex offenders reside;

10 (3) district attorney for the judicial
11 district in which the sex offenders reside; or

12 (4) secretary of public safety.

13 C. Upon receiving a request for registration
14 information regarding sex offenders described in Subsection A
15 of this section, the county sheriff, chief municipal law
16 enforcement officer, district attorney or secretary of public
17 safety shall provide that registration information, with the
18 exception of a sex offender's social security number, within a
19 reasonable period of time, and no later than seven days after
20 receiving the request.

21 D. Within seven days of receiving registration
22 information from a sex offender described in Subsection A of
23 this section, the county sheriff shall contact every licensed
24 daycare center, elementary school, middle school and high
25 school within a one-mile radius of the sex offender's residence

1 and provide them with the sex offender's registration
2 information, with the exception of the sex offender's social
3 security number.

4 E. The department of public safety may establish
5 and manage an internet web site that provides the public with
6 registration information regarding sex offenders described in
7 Subsection A of this section. The registration information
8 provided to the public pursuant to this subsection shall not
9 include a sex offender's social security number or a sex
10 offender's place of employment, unless the sex offender's
11 employment requires him to have direct contact with children. "

12 Section 5. EFFECTIVE DATE. --The effective date of the
13 provisions of this act is July 1, 2003.